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ART UNIT		PAPER NUMBER		
3627				
NOTIFICATION DATE		DELIVERY MODE		
12/09/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/716,926

Applicant(s)

KALED, NED A.

Examiner

Ramsey Refai

Art Unit

3627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-8 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8 and 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Amendment

Responsive to Amendment received August 1, 2009. Claims 1, 10, and 17 have been amended. Claims 9 and 20 were canceled. Claims 1, 3-8, 10-19 remain pending.

Response to Arguments

1. Applicant's arguments been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 8, 10-12, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable by Clarke (WO/ 02/074138) in view of Nelson (US Patent 6,502,012).
4. As per claim 1, Clarke et al teach an inventory replenishment notification system, the notification system comprising:

a plurality of bin monitors (**dispensers**), each of the plurality of bin monitors corresponding to one of a plurality of inventory storage devices, where each of the plurality of

inventory storage devices includes a primary bin (**dispensing chamber**) coupled to a reserve bin (**loading chamber**), and wherein each of the plurality of bin monitors includes a sensor and a transmitter, the sensor monitoring for when a reserve bin is accessed to replenish a primary bin, the transmitter sending bin replenishment information to an inventory control system (**see at least pages 3-4, abstract**)

Clarke et al teach a bar code that identifies the product in the bin (**see at least page 11, fig 5**) but fail to explicitly teach *wherein each of the plurality bin monitors includes a plurality of data fields that are remotely accessible through its transmitter, a first of the plurality of data fields configured to include component type identifying data, a second of the plurality of data fields configured to include usage history data*. However, in the field of endeavor, Nelson teaches a newspaper rack that includes a system which monitors the inventory in the rack. Several sensors are positioned throughout the rack to monitor when the quantity reaches a predetermined quantity or is depleted. When the sensors indicate a change in status, a signal is sent from the transmitter to a receiver to indicate the product level (usage data). The signal also includes an electronic serial number to identify the rack and product in order to identify the respective supplier (**see at least abstract, column 9, line 26-column 10, line 22**). It would have been obvious to one of ordinary skill in the art to combine Nelson with Clark et al because doing so would allow Clarke et al's bin to communicate inventory data wirelessly when the product in the primary bin is depleted.

5. As per claim 3, Clarke teaches wherein the transmitter comprises a wireless transmitter (**see at least page 7; wireless**).

6. As per claim 8, Clarke teaches wherein the inventory replenishment system automates ordering of new inventory when the bin replenishment information is received (**see at least page 6**).

7. As per claims 10-12 and 14-15, contain similar limitations as claims 1, 3, 8 above and are therefore rejected under the same rationale.

8. Claims 4-7, 13, 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over anticipated Clarke in view of Nelson in further view of "Official Notice".

9. As per claim 4, Clarke fails to teach wherein the bin monitor is powered by a *battery*. However, "Official Notice" is taken that the concept and advantage of using battery power is extremely well known. It would have been obvious to one of ordinary skill in the art to use battery power because it would provide portability to bin monitor.

The Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03**

10. As per claim 5, Clarke fails to teach wherein the transmitter comprises a wireless transmitter that transmits to a *relay transmitter*. However, "Official Notice" is taken that both the

concept and advantage of a relay transmitter is well known in the art. It would have been obvious to one of ordinary skill in the art to include a relay transmitter in Clarke's system because doing so would allow for the dispensers to communicate wirelessly to the control means when located outside of the area of the control means.

The Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03**

11. As per claim 6, Clarke teaches wherein the relay transmitter comprises a wireless receiver and transmitter that receives the bin replenishment information and transmits it to the inventory control system (**see at least pages 3, 5, 6**).

12. As per claim 7, Clarke fail to teach wherein the relay transmitter is *battery powered*. However, "Official Notice" is taken that the concept and advantage of using battery power is extremely well known. It would have been obvious to one of ordinary skill in the art to use battery power because it would provide portability to the relay transmitter. The Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-**

known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03

13. As per claim 13, Clarke fails to teach wherein each of the plurality of sensors comprises *a battery powered sensor*. However, "Official Notice" is taken that the concept and advantage of using battery power is extremely well known. It would have been obvious to one of ordinary skill in the art to use battery power because it would provide portability to the sensor.

The Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03**

14. As per claim 16, Clarke fails to teach wherein the step of transmitting bin replenishment information to the inventory control system comprises *transmitting through a wireless transmission to a relay transmitter and re-transmitting from the relay transmitter to the inventory control system*. However, "Official Notice" is taken that both the concept and advantage of a relay transmitter is well known in the art. The relaying feature claimed is a function of the relay transmitter. It would have been obvious to one of ordinary skill in the art to include a relay transmitter in Clarke's system because doing so would allow for the dispensers to communicate wirelessly to the control means when located outside of the area of the control means.

The Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an applicant must specifically point out the

supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03**

15. As per claim 17, it contains similar limitations as claim 1 and additionally teaches the use of *battery power*, which is not taught by Clarke. However, "Official Notice" is taken that the concept and advantage of using battery power is extremely well known. It would have been obvious to one of ordinary skill in the art to use battery power because it would provide portability to the bin monitors. The Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03**

16. As per claim 18, Clarke teaches the communication of replenishment information wirelessly to a control means (**see at least page 6**) but fails to explicitly teach *a plurality of relay transmitters and wherein each transmitter sends its corresponding replenishment information through one of the plurality of relay transmitters to a base station transmitter*. However, "Official Notice" is taken that both the concept and advantage of a relay transmitter is well known in the art. The relaying feature claimed is a function of the relay transmitter. It would have been obvious to one of ordinary skill in the art to include a relay transmitter in Clarke's system because doing so would allow for the dispensers to communicate wirelessly to the control

means when located outside of the area of the control means. The Applicant has not adequately traversed the Official Notice taken in the previous action. " To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." MPEP 2144.03c. **The common knowledge or well-known in the art statement is taken to be admitted prior art because the traverse was inadequate. MPEP 2144.03**

17. As per claim 19, Clarke teaches wherein each of the plurality of bin monitors can be accessed through the transmitter to determine a status of the bin monitor (**see at least pages 4, 6**).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 9:00 am-5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai
December 5, 2009
/Ramsey Refai/
Primary Examiner, Art Unit 3627